

CITY OF MUSKEGON  
PLANNING COMMISSION  
REGULAR MEETING  
MINUTES

March 11, 2004

P. Sartorius called the meeting to order at 4:02 p.m., and roll was taken.

MEMBERS PRESENT: T. Harryman, J. Aslakson, B. Mazade, S. Warmington, P. Sartorius, B. Smith, T. Michalski, L. Spataro

MEMBERS ABSENT: T. Johnson, excused.

STAFF PRESENT: B. Lazor, C. Brubaker-Clarke, H. Griffith

OTHERS PRESENT: J. Boss, Sterling; C. Holt, 160 John.

APPROVAL OF MINUTES

A motion to approve the minutes of the regular meeting of February 12, 2004 was made by S. Warmington, supported by J. Aslakson and unanimously approved.

OLD BUSINESS

Case 2004-7: Request for site plan review for a new multiple-family housing development at property located near Bayou, Butler and Wood Sts., by John VanMeeter. (Tabled). B. Lazor presented the staff report. The Sterling group has met with staff and has submitted a revised site plan addressing many of the staff comments. Some observations still remain. There is one sign shown on the plan. No sign details are given and will need to be provided when a sign permit is applied for from the City. The sign ordinance allows entranceway monument signs for residential developments of up to twelve (12) square feet. One sign for each major public road frontage may be provided and signs can't exceed eight feet in height. A four-foot privacy fence has been shown on the western property line. Dumpster screening is proposed to have a four-foot high privacy fence. A note needs to be on the site plan indicating that the parking areas will be striped. Existing easements and right of way lines need to be shown. The City Engineer previously had a comment that building K-1 is located in an easement. Since no easements are labeled on the drawing, staff is unable to determine if the building has been moved. If west setback is 14 feet then East Setback may be 10 feet. The pavement on the east side needs to be dimensioned to show that it meets the setback. There is a 50-foot setback requirement from the ordinary high water mark or wetland. This needs to be clearly indicated on the plans that the buildings meet this requirement. A landscape plan has been provided and appears to meet ordinance requirements. The Department of Public Works has reviewed the site plan and has no outstanding issues with the site plan. The Fire Department has reviewed the site plan and has accepted the site plan with the following conditions: a) The access road shall meet the turning radius requirements as required in the International Fire Code for all local Fire Department apparatus. This pertains to the East end of the complex roadway. Please review International

Fire Code appendix D for dead end fire apparatus turnaround. b) Fire apparatus access roads shall support all fire equipment and have a surface that will support a 76,000-lb. vehicle. c) All fire hydrants shall have a sign at least 4 ft high to mark the location. d) Try to keep fire hydrants away from parking conflicts. e) Sprinkling is not required for the buildings. f) The fire lanes will be reviewed with the fire department at a later date. Comments from planning staff in reaction to Fire Department Comments – If a larger turnaround is needed, buildings H-2 and K-3 may need to be moved to accommodate the dead end turn around. Planning Staff has been in contact with the Fire Department (FD) and the FD has indicated that the turn around may be large enough for the 42-foot fire truck to maneuver. However, the turn around needs to meet International Fire Code requirements. The site plan should also outline where the “Geoblock” porous pavement is to be located. The City Engineer’s comments were provided to the commission members and the applicant at the meeting. The Police Department has reviewed the site plan and has no outstanding issues with the site plan. Staff recommends approval of the request with the conditions outlined below.

J. Boss stated that building K-1 had been moved outside of the easement. The revised site plan will have a notation that the parking lot will be striped. He stated that there weren’t any right of ways in the project. B. Lazor stated that the vacated portion of Wood St. is an easement. P. Sartorius stated that this should be shown on the site plan. J. Boss stated that their sign would be done according to the City standards. There would be private lighting on the property, which will be shown on the building plans. He had met with the Fire Marshall and stated that they would be using the Geoblock pavement standard, which would support the fire trucks. J. Aslakson went over the fire code requirements and asked if they would be meeting them. J. Boss stated that they would. J. Boss stated that they would address the Engineering Department’s comments in their construction plans. L. Spataro asked if they would be improving the unimproved portions of Bayou and Butler Streets. J. Boss stated that they would.

A motion that the proposed site plan for a new multiple family development near Bayou, Butler and Wood Streets be, approved, based on the following conditions: 1) A revised site plan will be submitted for staff approval. The revised site plan will contain: a) The pavement on the east end should clearly show that it meets the 10-foot setback requirement. The buildings should be clearly indicated that they are out of the 50-foot setback from the ordinary high water mark or wetland requirement. b) The site plan should include a note saying parking areas are to be striped. c) Streets, easements, right of way lines should be shown. d) A sign permit from the City will be required for the monument sign shown on the site plan, and any additional signage planned for the site. e) If any outdoor lighting is proposed, location, type, and height should be shown on the plan. f) All conditions set forth by other the other city departments, was made by J. Aslakson, supported by S. Warmington and unanimously approved.

T. Michalski arrived at 4:15 p.m.

## PUBLIC HEARINGS

Hearing; Case 2004-8: Request to rezone the property located at 955 W. Laketon from B-4, General Business to RT, Two Family Residential, by Michael and Caterina Holt. B. Lazor presented the staff report. The subject property is located near the intersection of Hudson and Laketon Avenue. It is Zoned B-4, General Business. The properties to the East and West are

also zoned B-4. The properties located to the North and South are zoned R-1, Single Family. This property is located across the street from the southern edge of Area 12. This case is a result of an enforcement action and went before the ZBA twice for a Use Variance request to allow the property to be rented as a 2-unit apartment building in The B-4, General Business District as Case 2003-10 and 2004-02. In both instances, the ZBA denied the request. See excerpts of ZBA minutes provided below. Background excerpted from ZBA Staff report. The Housing Inspector brought the situation to staff's attention. The entire south side of Laketon Ave., from Seaway Dr. to Barclay St. is zoned B-4, including the subject property. From the subject property eastward on this side of Laketon is almost entirely commercial, with only one other residential property. The property was historically a legal nonconforming two-unit apartment building, with the first floor being owner-occupied by Edward Mikos. However, since at least 1996 the upper apartment had been vacant. The previous property owner had participated in the City's paint program in 1996, which allows financial assistance for paint only for single-family homes. In order to qualify for the program, the homeowner agreed not to rent out the upper apartment, and signed agreements to that effect in 1996, 1997 and 2000. Mr. Mikos has since passed away and the property has been sold.

The Housing Inspector became aware that the new owners are renting out both units and alerted staff to the situation. Staff wrote an enforcement letter to the current owners apprising them of the situation and explaining that the upper apartment has lost its nonconforming status since it had been vacant for more than 2 years. The proposed use of the property is for a 2 – unit apartment building. Former Zoning staff gave the applicant several options after the variance was denied, these included: Conversion of a portion of the building to office use. The building could be used as a single-family residential unit as a legal non-conforming use. Rezone the property. Finally the illegal upstairs unit could be closed off and left vacant. 1) The Future Land-Use Map shows the subject property as Commercial. 2) The subject property is located in Sub-Area 6: Barclay Street Sub-Area: a) It is the goal of the Master Plan to retain the mixed-use character of Sub-Area 6 and to demonstrate how varying land uses may co-exist, as well as compliment each other. b) Sub-Area issue: Commercial activity may also be found along Laketon Avenue, between Barclay Street and Seaway Drive. Commercial uses are situated in strip fashion along the roadway and include a variety of local retail and service facilities. c) Sub-Area issue: Commercial development along Laketon Avenue has been restricted to the area between Seaway Drive and Barclay Street. Pressure may result to extend commercial uses farther west due to the large population concentration in this area. d) Master Plan Recommendation: Restrict commercial development along Laketon Avenue to Barclay Street. Staff received a phone call from Bob Ferris from Dowd Street who is against having a 2-family home there, but when he learned what could be allowed under the current zoning, he would rather have the 2-family home there. Staff also received a phone call from Robert Mooney of 1848 Dowd who said that he is opposed to the zoning. He stated that there are already enough problems in the neighborhood without rezoning the structure to a 2-family. He added that there are already 2 families living there. The commission members were provided with excerpts of the Zoning Board of Appeals minutes regarding the variance applications for this property. The commission members were also provided with the B-4 and RT zoning district language. Staff recommends denial of the request due to non-compliance with the Master Plan and Future Land use Map.

C. Holt stated that she had 2 letters from area commercial realtors stating the likelihood of being

able to rent the lower portion of the home for a commercial use and offered to let the commission members view them. She also had a sketch of the area showing where other businesses are located, which commercial buildings are vacant, and which are residential homes. She also offered to let the commission members view this. She had general contractor estimates for how much it would cost to convert this home into single family or convert it to allow for a commercial use. She gave an overview of the history of the home. B. Mazade asked if the units were occupied. C. Holt stated that they are both occupied. P. Sartorius asked if they were rented to 2 separate families. C. Holt stated that they were. T. Harryman asked the applicant if she knew how old the home was. C. Holt stated that she believed it was built in the 1900s. T. Harryman stated that the home looks as though it were built as a single family home. L. Spataro agreed. The home may have been changed to a 2 family around the time of the war when many of the larger homes were broken up into apartments. He asked the applicant if she knew what kind of research that the realtor performed. C. Holt stated that she didn't know. P. Sartorius stated that the agreement that was made with the City and the previous owner should have shown up during the title search if it was a recorded agreement. He asked if she had looked over her title work. C. Holt stated that she hadn't looked at it closely. The realtor was aware that they were looking for rental property. P. Sartorius asked if he was her realtor or that of the seller. C. Holt stated that she had been working with him, but he was also the realtor for the seller. P. Sartorius stated that realtors work for the seller first. T. Harryman asked if she had checked into the zoning for the property. C. Holt stated that she had and it was single family. B. Mazade asked show long the current tenants had lived in the home. C. Holt stated that the upper apartment had been rented to the same person once they had made some repairs. The lower apartment had a change of tenants while she owned it. She estimated that the tenant for the lower apartment had been there for about 6 months.

A motion to close the public hearing was made by L. Spataro, supported by T. Harryman and unanimously approved.

B. Mazade asked what the dates of the ZBA meetings were. B. Lazor stated that they were January 13, 2004 and July 8, 2003. L. Spataro stated that the owner had been badly served by the realtor. There should have been a covenant that the single-family was allowed, but the use of a 2 family wasn't so the applicant could have had a chance to decide what she wanted to do before purchasing the home. This parcel would have to be combined with other lots in order to be a business other than a small-scale home occupation type business. He felt that the ZBA should have granted the variance. He felt that the property owner had acted in good faith. B. Mazade stated that this was a tough situation. To rezone the property to a 2 family would create a spot zone. The home doesn't fit in with the zoning district. He was concerned with this being brought forward due to an enforcement action. He was also concerned since 1 of the units had a turn over and was still rented to a new tenant knowing it was in violation of the zoning ordinance. J. Aslakson stated that he had some of the same concerns. He stated that he does sympathize with the problem. He stated that the Master Use Plan doesn't coincide with what is actually there. B. Smith asked if the home could still be rented as a single family. P. Sartorius stated that it could. T. Harryman added that if the home were vacant for more than 2 years it wouldn't be able to be rented to a single family either. T. Michalski stated that he agreed with L. Spataro. He felt that the ZBA should have granted the variance. He asked what other solution could be arrived for this home? He doesn't feel that leaving half of the home vacant or tearing the home down is viable either. This is a unique situation. Granting a variance for this

property would be the highest and best use for it. L. Spataro stated that the variance should have been granted. P. Sartorius believed that this is a case of hardship and you obtain a variance for it, not a rezoning. B. Mazade stated that he would recommend denial of the rezoning request and ask the City Commission to recommend that the ZBA rehear the case at no cost to the owner. He also felt that the PC members should state why they feel there is a hardship. P. Sartorius stated that he felt that the ZBA should reconsider this matter and agreed with B. Mazade. J. Aslakson agreed. He stated that this needs a solution. He has no problem with a spot zone since it is down zoning from what it currently is. When looking long term and someone wanted to place a business at this location, they would need to go for another rezoning. T. Michalski agreed with J. Aslakson regarding spot zoning. He stated that this would be the area traveled to and from the Cross Lake Ferry and there are already vacant properties along Laketon Ave., which are considered blighting.

A motion that the request to rezone property at 955 W. Laketon, from B-4, General Business to RT, Two Family Residential be recommended for denial to the City Commission pursuant to the City of Muskegon Zoning Ordinance, and the determination of lack of compliance with the intent of the City Master Land Use Plan and zoning district intent, and would recommend that the City Commission ask the ZBA to reconsider the hardship application for this property, was made by B. Mazade, supported by J. Aslakson and approved with S. Warmington, B. Smith, and T. Michalski voting nay.

Hearing; Case 2004-9: Staff-initiated request to amend Section 2311 (Accessory Structures and Buildings) of the Zoning Ordinance adding language regarding permits. B. Lazor presented the staff report. Staff has come across an oversight in the Zoning Ordinance. On July 31, 2001, The City of Muskegon began enforcing the State of Michigan Construction Code which said that building permits would no longer be required for accessory structure for one and two family dwellings where floor space does not exceed 200 square ft. Therefore the city has required a development permit for these less than 200 square ft. accessory structures. The language made it into the Shed brochure but was never added to the Zoning Ordinance. The proposed ordinance language change was provided to the commission members.

A motion to close the public hearing was made by J. Aslakson, supported by B. Mazade and unanimously approved.

T. Harryman asked about the height restrictions. He gave an example of an existing structure of a horse stable and how the rules allow for it to be rebuilt. B. Lazor stated that this is for something small, like a shed. Anything larger would require a building permit.

A motion that the proposed additions, deletions and amendments to Section 2311 (Accessory Structures and Buildings) of the Zoning Ordinance be recommended to the City Commission for approval, was made by L. Spataro, supported by J. Aslakson and unanimously approved.

## OTHER BUSINESS

Work plan P. Sartorius asked for that a revision be done and provided to the commission members for the next meeting.

Planning Commission Announcements P. Sartorius asked the commission members if they would be opposed to checking the City web site for the Planning Commission Agendas instead of them being mailed out. He also asked if it would be okay to have excerpts from the zoning ordinance taken out of the packets and instead, having a couple of zoning ordinances available at the meetings should a commission member need to look something up. The commission members would be notified thru email when the agendas are on the web site. This was agreeable to the commission members.

Hackley Hospital Presentation P. Sartorius asked the commission members that were interested in attending if they had a couple of dates and times so he could set this up. He suggested a noon and 5 p.m. time. The commission members discussed some dates in April.

There being no further business, the meeting adjourned at 5:03 p.m.

hmg  
3/10/04